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EXAMINER

FISCHER, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/624,154

Applicant(s)

GODLEWSKI ET AL.

Examiner

Andrew J. Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

***Acknowledgements***

1. In view of the appeal brief filed on October 17, 2003 (Paper No. 20), PROSECUTION IS HEREBY REOPENED. An office action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. This document is written with OACs. Because of OACs, the Examiner is unable to control format, spelling, and paragraph numbering. The Examiner apologizes for these problems (e.g. the system routinely calls the reference "Some" with an 'm' instead of an 'n').

***Restriction & Election of Species***

3. Applicants' election without traverse of Invention I (claims 1-15 and 31-35) in Paper No. 8 is acknowledged.

4. Applicants' election without traverse of Species I represented by figure 1 (claims 1-15 and 31-35) in Paper No. 8 is also acknowledged.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1, 3, and 31-34 are rejected under 35 U.S.C. §102(e) as being anticipated by Sone (U.S. 6,204,763 B1) (“Sone”). Sone discloses the following: providing a plurality of dispensing units (storage receptacle 11) that each hold a plurality of each of multiple distinct items (e.g. milk, toilet paper, paper towels, and canned food as showing in figure 2), the units have processor and memory (inherent in computer 26); periodically sending restocking information from the dispensing units (an item is added to the list after its been in the refrigerator for a predetermined length of time or an order is triggered if the quantity is below a predetermined threshold) over a network to a server computer (24) wherein the restocking information includes restock quantity for each item (inherent); aggregating the restock quantities over the plurality of dispensing units for each of the multiple distinct items (occurs on the user=s bill, e.g. if milk was delivered twice, the user would have milk delivery twice on their bill; alternatively, the four (4) toilet paper rolls as shown in figure 2); generating the ordering information (quantity to be ordered) based on the aggregate restocking information (the 4 rolls of toilet paper; its impractical to supply a single roll); electronically sending the ordering information to one or more supplier computers to order items to be restocked within the dispensing units (inherent); generating

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ordering information (for vendor purposes) using the sever computer (without the server computer, the vendors would not have ordering information to fill the order); determining supplier information (which supplier or vendor furnishes a given product); accessing the hosted procurement application (the computer program running on computer 26) to view the ordering information on a display screen of a user computer (touch screen, see column 5, ~lines 62+) with ordering pages (inherent); the information is sent to a business portal computer (inherent in the multiple vendors) using a purchase order number (inherent in the order number); sending advance shipping notice (e.g. requesting delivery of milk on ever Saturday afternoon); confirmation of the received items is sent from the dispensing units (inherent in the user's payment; if the user never received an item, the user would not pay for that item just as a credit card purchaser may challenge an item on their bill if they never received possession of the item); an electronic invoice is sent (inherent since how else would the household=s purchases be tracked and billed?).

7. For discussion purposes, the Examiner will refer to the "store" in Figure 2 in Some as the "Retailer" with the unit 11 in Figure 1 as being at a "Customer" location. The retailer in Some will therefore purchase its products from a "Distributor."

8. It is the Examiner's factual determination that aggregating the restock quantities over a plurality of dispensing units for each of the multiple distinct items is inherent. It is the Examiner's position that it is more likely than not that the Retailer in Sone would aggregate before placing an order with its distributor. For example, if the store did *not* aggregate, the Retailer would place an order with its Distributor for a single roll of paper towel when a

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customer ordered a single roll of paper towel. In other words, as an order came in from a customer, the store would place another individual order with the Distributor.

9. It is the Examiner's factual determination that electronically sending the ordering information to a supplier computer to order items to be restocked into the dispensing units is also inherent in Sone. Because Sone discloses "an automatic inventory system" which uses the Internet, because more than one home uses this system in combination with more than one vendor, it is more likely than not that Sone would send the restocking information electronically. Manually sending the restocking information would defeat the primary purpose of Sone.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 3, and 31-34 are alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Sone in view of Kawashima et. al. (U.S. 5,168,445)("Kawashima").<sup>1</sup> It is the Examiner's principle position that the claims are anticipated as noted above.

Alternatively, if not inherent, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sone as taught by Kawashima to include electronically sending ordering information to a supplier and to include aggregating the restock

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<sup>1</sup> See MPEP §2112 expressly authorizing alternative §102/§103 rejections when the question of inherency is present in the anticipation rejection.

quantities over a plurality of dispensing units for each of the multiple distinct items. Such a modification would have allowed the Retailer to take advantage of discount buying. One of ordinary skill in the art clearly recognizes that the more one buys, the greater the volume discount the buyer can receive. Moreover, such a modification would have allowed the Retailer to purchase products from distant places without having to travel there merely to place the order.

12. Claims 2, 4-15, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sone in view of Salvo et. al. (U.S. 6,341,271)("Salvo"). Sone discloses as discussed above but does not directly disclose receiving the request using the server computer to obtain the quantities of items to be restocked. Additionally, Sone does not disclose much in terms of the vendor side of the operations in the disclosed system.

Salvo directly teaches initiating the request by the vendor (vendor managed inventory). Salvo's vendor managed inventory system has the vendor initiating the request (column 9, ~ lines 37-65); generating payment (at 155); and permitting manual selection of suppliers and manufactures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sone as taught by Salvo and include various aspects of Salvo's vendor managed inventory system to the vendor side of Sone. In particular, this would include Salvo's vendor management tools (some of which are noted above in the cited passage). Such a modification would have further reduced delays, costs of ordering, and inventory turn around times.

Additionally, the modification would have helped synchronize inventory ordering and delivery so that food-related items are not out of stock in the home and that perishable goods spend as little as time as possible in transit. For example, suppose milk inventory becomes low

in a particular home every Saturday morning because children in the home are having cereal with milk while watching cartoons. Using the vendor's historical trend analysis tool as implemented in Salvo, automatic ordering and subsequent delivery of milk could occur every Saturday afternoon.

This rejection relies on the anticipation rejection noted above.

13. Claims 2, 4-15, and 35 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over the Sone/Kawashima combination noted above and in further view of Salvo. The Sone/ Kawashima combination discloses as discussed above but does not directly disclose receiving the request using the server computer to obtain the quantities of items to be restocked. Additionally, the Sone/ Kawashima combination does not disclose much in terms of the vendor side of the operations in the disclosed system.

Again, Salvo directly teaches initiating the request by the vendor (vendor managed inventory). Salvo's vendor managed inventory system has the vendor initiating the request (column 9, ~ lines 37-65); generating payment (at 155); and permitting manual selection of suppliers and manufactures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Sone/Kawashima combination as taught by Salvo and include various aspects of Salvo's vendor managed inventory system to the vendor side of Sone. In particular, this would include Salvo's vendor management tools (some of which are noted above in the cited passage). Such a modification would have further reduced delays, costs of ordering, and inventory turn around times.

Additionally, the modification would have helped synchronize inventory ordering and delivery so that food-related items are not out of stock in the home and that perishable goods



spend as little as time as possible in transit. For example, suppose milk inventory becomes low in a particular home every Saturday morning because children in the home are having cereal with milk while watching cartoons. Using the vendor's historical trend analysis tool as implemented in Salvo, automatic ordering and subsequent delivery of milk could occur every Saturday afternoon.

This rejection relies on the obviousness rejection noted above.

14. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

15. For due process purposes, the Examiner again confirms that Applicants have decided not to be their own lexicographer by indicating and defining claim limitations to have meanings other than their ordinary and accustomed meanings. To support this position, the Examiner again notes the following factual findings as first expounded in the previous Office Actions.<sup>2</sup> First, the Examiner has again carefully reviewed the specification and prosecution history and can not locate any lexicographic definition(s). Second, the Examiner finds that not only have Applicants not pointed to definitional statements in their specification or prosecution history, Applicants

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<sup>2</sup>See the Examiner's initial Office Action on the merits mailed September 5, 2002, Paper No. 9, Paragraph No. 12; and the previous Office Action on the merits mailed March 31, 2003, Paper No. 14, Paragraph No. 11.

have also not pointed to a term or terms in a claim with which to draw in those statements.<sup>3</sup>

Third, after receiving express notice of the Examiner's position that lexicography was *not* invoked,<sup>4</sup> Applicants' first response, (i.e. Paper No. 12) did not point out the "supposed errors" in the Examiner's position regarding lexicography invocation in accordance with 37 C.F.R.

§1.111(b) (i.e. Applicants did not argue lexicography *is* invoked). Forth and to be sure of Applicants' intent, the Examiner also notes that Applicants have declined the Examiner's express invitation<sup>5</sup> to be their own lexicographer.<sup>6</sup> Finally, after receiving express notice of the preceding factual findings and conclusions, Applicants' latest response (i.e. Applicants' After Final submission, Paper No. 15) again fails to point out the supposed errors in the Examiner's position regarding lexicography invocation in accordance with 37 C.F.R. §1.111(b). Moreover, Applicants' latest response—while fully considered by the Examiner—does not change the Examiner's conclusion that Applicants have decided not to be their own lexicographer.

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<sup>3</sup> "In order to overcome this heavy presumption in favor of the ordinary meaning of claim language, it is clear that a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, at the very least, point to a term or terms in the claim with which to draw in those statements." *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999).

<sup>4</sup>See again the Examiner's initial Office Action on the merits, Paper No. 9, Paragraph No. 12.

<sup>5</sup> *Id.*

<sup>6</sup> The Examiner's requirements on this matter were reasonable on at least two separate and independent grounds. First, the Examiner's requirements were simply an express request for clarification of how Applicants intend their claims to be interpreted so that lexicography (or even an *attempt* at lexicography) by Applicants was not inadvertently overlooked by the Examiner. Second, the requirements were reasonable in view of the USPTO's goals of compact prosecution, productivity with particular emphasis on reductions in both pendency and cycle time, and other goals as outlined in the USPTO's The 21<sup>st</sup> Century Strategic Plan, February 3, 2003 available at [www.uspto.gov/web/offices/com/strat21/index.htm](http://www.uspto.gov/web/offices/com/strat21/index.htm) (last accessed January 12, 2004).

Therefore, the heavy presumption in favor of the ordinary and accustomed meaning for claim terminology is confirmed. Accordingly, the claims continue to be interpreted with their "broadest reasonable interpretation," *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997),<sup>7</sup> and the Examiner continues to rely heavily and extensively on this interpretation.<sup>8</sup> Unless expressly noted otherwise by the Examiner, the preceding claim interpretation principles in this paragraph apply to all examined claims currently pending.

16. Functional recitations using the word "for" and "to" (e.g. "for supplying items to a plurality of dispensing units" as recited in claim 1 and "to permit" as recited in claim 33) have been given less patentable weight because they fail to add any steps and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim.).

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<sup>7</sup> See also *In re Bass*, 314 F.3d 575, 577, 65 USPQ2d 1156, 1158 (Fed. Cir. 2002) ("In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. Words in a claim are to be given their ordinary and accustomed meaning unless the inventor chose to be his own lexicographer in the specification."); MPEP §§ 2111 and 2111.01; and *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (en banc).

<sup>8</sup> See 37 C.F.R. §1.104(c)(3) which states in part: "the examiner may rely upon admissions by applicant . . . as to *any matter* affecting patentability . . . . [Emphasis added.]"

***Response to Arguments***

17. Applicants' arguments filed with his brief have been fully considered but they are not persuasive.

18. Regarding Applicants' arguments regarding the "Use of Uncited Material" have been considered and are not persuasive. First, the Examiner has not used any uncited material. Other than dictionary definitions, *all* materials used have been *cited* in an office action and noted on at least one PTO-892.

19. Applicant argues that "There is nothing to suggest that supplies by the store are maintained in anything but the normal fashion when customer shop in person, i.e. based on past inventory behavior."<sup>9</sup> First, it is unclear as to what is meant by "normal behavior." Second, even assuming the reordering is based upon "past inventory behavior" as Applicant suggest, this is "aggregating the restock quantities over a plurality of dispensing units for each of the multiple distinct items" Basing a Retailer's order (the order with their Distributor) would including aggregating the restock quantities. In fact, this is one of the best methods of predicting future use of inventory items. See *e.g.* Shipman (U.S. 5,819,232) as evidence to support the well known statement that aggregating past quantities is a part of the restocking decision making process.

20. Applicant argues that "[t]here is noting in Sone to suggest those limitations recited in independent claims 1, 31, and 32 related (sic) to restocking."<sup>10</sup> This statement is simply not true. First, "[t]he law is clear that patent documents need not include subject matter that is known in the field of the invention and is in the prior art, for patents are written for persons experienced in

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<sup>9</sup> Applicants' First Appeal Brief, Paper No. 20, Pages 6 and 7.

the field of the invention. ... To hold otherwise would require every patent document to include a technical treatise for the unskilled reader.” *S3 Inc. v. nVIDIA Corp.*, 259 F.3d 1364, 1371, 59 USPQ2d 1745, 1749-50 (Fed. Cir. 2001) citing *Vivid Technologies, Inc. v. American Science and Engineering, Inc.*, 200 F.3d 795, 804, 53 USPQ2d 1289, 1295 (Fed. Cir. 1999) (“patents are written by and for skilled artisans”). The Examiner finds that the word “replenishment” in the *title* of Sone relates to restocking. Therefore Applicants’ statement that “[t]here is nothing in Sone to suggest those limitations recited in independent claims 1, 31, and 32 relate[] to restocking” is simply false.

Moreover, Applicants’ assertion that there is “nothing” in Sone related to the limitations is highly exaggerated. The limitation “providing a plurality of dispensing units” in claim 1 is clearly present in Sone making Applicants’ statement, again, simply not true.

21. Moreover, the Examiner disagrees with Applicants’ statement that “Sone teaches away from aggregation by its focus on individual homes.” How so? It is the Retailer who does the aggregating.

22. Regarding Applicants’ assertion that the combinations with Salvo would change the principle operation of Savo are simply irrelevant. Salvo is the modifying reference—not the principle reference. Salvo is relied upon for specific teachings. Whether or not the combination changes the principle operation or “unsuitable” as suggested by Applicants is simply irrelevant.

23. The Examiner also respectfully disagrees with Applicants’ statement that “statistical trend-analysis and forecasting tools . . . are not much value at the small scales contemplated in Sone” Why not? For example, statistical analysis would provide the Retailer additional

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<sup>10</sup> Applicants’ First Appeal Brief, Paper No. 20, Pages 6, 3<sup>rd</sup> Paragraph.

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information which would help in determining when to upload the information from the dispensing units to Retailer server. Additionally, statistical analysis would also help the Customer purchase products at the most advantageous time taking advantage of the freshness of the products at the Retailer, changes in price, known product consumption patterns, and provide a method of removing products that expire because of expiration dates. For example, if the system could statistically determine that the customer's 2 gallons of heavy cream was continually past its expiration date, the Retailer might deliver to the customer only 1 pint of heavy cream when the system detects there is no cream present in the dispensing units. The system could provide the customer a list of most commonly used items or least used items and suggest alterations to the Customer's desired inventory to minimize product waste.

24. Regarding Official Notice, Applicants argue that the distinction drawn by the Examiner "appears to be a semantic quibble." The Examiner respectfully disagrees and finds that Applicants simply do not understand the concept of Official Notice. Again, Applicant has not pointed out why the officially noticed statement(s) were not old and well known in the art. Because Applicants' traversal was inadequate, the Officially Noticed statement(s) are considered admitted prior art.

Suppose the Examiner took official notice that 'beef is frequently on sale at supermarkets.' A proper traversal would be stating *why beef is not frequently on sale at supermarkets*. Pointing out that this statement is not present in Applicants' claims has absolutely no relevance in traversing the *Official Noticed* statement. Pointing out that this statement is not present in Applicants' claims would be appropriate when traversing the *rejection* itself—but not the Official noticed statement. Applicants' argument appears to be akin to arguing that the

Examiner's obviousness rejection can not be sustained because the claims are not anticipated. This is not a semantic quibble but a reflection on Applicants' understanding of Official Notice.

### ***Conclusion***

25. The following two (2) citations to the Manual of Patent Examining Procedure ("MPEP") apply to this Office Action: MPEP citations to Chapters 200, 700, 1800, and 2100 are from the MPEP 8<sup>th</sup> Edition, Rev 1, February 2003. All remaining MPEP citations are from MPEP 8<sup>th</sup> Edition, August 2001.

26. The following references are considered pertinent to Applicants' disclosure: Herman et. al. (U.S. 6,341,353 B1); Ogasawara (U.S. 6,327,576 B1); Rosenweig (U.S. 6,188,991 B1); Moran et. al. (U.S. 6,185,542 B1); Tognazzini (U.S. 5,739,512); Haluska (U.S. 5,638,519); and Petrie, Jr. et. al. (U.S. 5,509,071).

27. In accordance with the USPTO's goals of customer service, compact prosecution, and reduction of cycle time, the Examiner has made every effort to clarify his position regarding claim interpretation and any rejections or objections in this application. Furthermore, the Examiner has provided Applicants with notice—for due process purposes—of his position regarding his factual determinations and legal conclusions. If Applicants disagree with *any* factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied,<sup>11</sup> the Examiner respectfully reminds Applicants to properly traverse the Examiner's position(s) in accordance with 37 C.F.R. §1.111(b) *in their next response*. By

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<sup>11</sup> E.g., if the Examiner rejected a claim under §103 with two references, although not directly stated, it is the Examiner's implied position that the references are analogous art.

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addressing these issues now, matters where the Examiner and Applicants agree can be eliminated allowing the Examiner and Applicants to focus on areas of disagreement (if any) with the goal towards allowance in the shortest possible time. If Applicants have any questions regarding the Examiner's positions or have other questions regarding this communication or even previous communications, Applicants are strongly encouraged to contact Examiner Andrew J. Fischer whose telephone number is (703) 305-0292. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's immediate supervisor, Robert Olszewski, can be reached at (703) 308-5183. To respond to this Office Action by facsimile, fax to (703) 872-9306.



Andrew J. Fischer  
Patent Examiner

ajf  
January 12, 2004